



STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

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March 5, 1986

TO: Kenneth E. May, Associate Director, Mining

FROM: Lowell P. Braxton, Administrator, Mineral Resource *LO3*
Development and Reclamation Program

RE: Beaver Creek Coal Company, Wildhorse Ridge,
CEP/015/007, Emery County, Utah

Beaver Creek Coal Company (BCCC) explored the above-captioned property in 1982, 1983 preparatory to making application for a Mining and Reclamation Plan (MRP). Coal and surface ownership is held by Nevada Electric Investment Company (NEICO). Activity on the exploration program was limited to drilling (sites now reclaimed) and construction of an access road located entirely on fee surface, fee mineral property. The road was constructed under the constraints of the exploration permit and as such was not bonded.

At this time, BCCC would like to withdraw the permit application. NEICO has not indicated an interest in continuing the Beaver Creek permit application or in filing a new permit application. As fee owner, NEICO has indicated an interest in maintaining the access road as a postmining land use and submitted formal application for such postmining land use on December 15, 1985. The road was constructed to Class III standards with the exception of the grade and drainage design which were Class II standards. NEICO would like the access road delivered to NEICO in a stable, controlled access state by BCCC. BCCC will willingly commit to stabilization measures required to satisfy NEICO and the Division of Oil, Gas and Mining (DOGM) including construction of gates required to control access. Both NEICO and BCCC are desirous of consummating delivery to NEICO in a stabilized form during the 1986 field season. A stabilization plan must be submitted by BCCC that will be satisfactory to DOGM and NEICO which insures that the road and associated in- and out-slopes will be reseeded to minimize erosion. Modification of existing culverts and construction of water bars befitting a limited access road must be discussed and constructed to the satisfaction of DOGM and NEICO.

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UCA 40-10-1 et seq does not discuss leaving a Class III road as acceptable postmining land use. The U. S. Fish & Wildlife Service (USFWS) and Utah Division of Wildlife Resources (DWR) representatives have cited DOGM's regulations regarding reclamation of Class III roads and are not in concurrence with the above proposed postmining land use. If the road were constructed on public domain or state land, the mandate to reclaim as per Class III reclamation standards would be clear. Since the road is on fee ground, I would consider the owner's wishes for postmining land use worthy of very strong consideration by the Division. It should be noted that BCCC is willing to reclaim as per the regulations, but the landowner, NEICO, has specifically asked for retention of the road as the appropriate postmining land use. My recommendation would be to allow the proposed postmining land use since no structures besides the road are involved in the postmining land use and the use is in accord with the wish of the owner.

We have requested a statement from a representative of the Attorney General's office regarding the viability of the proposed postmining land use. Please advise if I can provide additional information to expedite this Attorney General's statement.

btt

cc: Barbara Roberts

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